



## Background statement from First Call for December 10, 2014 First Call Coalition meeting with Minister Don McRae to discuss the clawback of child support from children on Income Assistance

### OUR RECOMMENDATION

First Call has called for an end to the clawback of child support from parents on income assistance in our annual BC Child Poverty Report Cards since 2007. In one year, 2013, we recommended an exemption with a cap of \$300 per month. After further discussion with our coalition partners and parents and children affected by this policy, we no longer are recommending a capped exemption. Rather we are recommending a full exemption that allows the children who are meant to benefit from these payments to do so.

### CHILDREN'S RIGHTS

We base this call first and foremost on our understanding of BC's obligations to respect children's rights as enshrined in the United Nations Convention on the Rights of the Child (UNCRC). Specifically,

- Article 3: The best interests of the child shall be a primary consideration
- Article 6: Children's right to the survival and development "to the maximum extent possible"
- Article 18: Children's right to the support of both parents
- Article 19: Children's right to protection from neglect or negligent treatment
- Article 24: Children's right to the enjoyment of the highest attainable standard of health
- Article 27: Children's right to a standard of living adequate for their physical, mental, spiritual, moral and social development including the right to financial maintenance from their parents
- Article 31: Children's right to full and equal participation in cultural, artistic, recreational and leisure activities

Children's right to receive support from their non-custodial parents is also a fundamental principle of family law, affirmed in a Supreme Court of Canada decision (*D.B.S. v. S.R.G.*, 2006 SCC 37 at para. 38).

### THE EXPERIENCE OF FAMILIES

We also base it on the testimonials from many families, overwhelmingly mother-led, who have experienced this policy as injurious to their children's health and well-being, to their own health and well-being and to their relationships with their children's fathers. This clawback is made even more egregious in the context of welfare benefit rates that put these families into very deep poverty, the disproportionate impacts on mother-led families, and the unavailability of affordable, quality child care that would allow those mothers who are able to work to do so. That these child support payments are taken and kept by the provincial government when a significant amount of the children's support is paid by federal benefits only compounds the unfairness.

We have heard from custodial mothers and non-custodial fathers that the clawback policy acts as a disincentive for fathers to pay child support, knowing their children do not benefit. We have heard how

the mandatory assignment of maintenance rights introduces and/or increases tension between the parents and may put women at risk of further abuse, but provides no financial benefit for the family in exchange for these risks. We have heard how difficult it is to synchronize the sometimes erratic payments and subsequent clawbacks with IA benefit payment schedules, leaving these very poor families in periods of acute financial distress. We are aware of cases where the administration of the clawback has been the direct cause of homelessness for women and children, when their monthly income was reduced to as low as \$50.00, they were unable to cover rent, and eviction notices were served.

### **GOVERNMENT'S RESPONSE**

We have heard government's messages that the current policy is based on the principle that "income assistance is intended to be a minimum," that taxpayers may be concerned about people receiving payments they "may or may not need" (Tye article May 15/14), that because some children would get more than others this would be unfair, and that the provincial budget cannot afford to give up the approximately \$17 million currently clawed back through these payments. (Figures for 2013-14 show the amount to be over \$18 million.)

We have not heard any comment from government on the how this policy respects the rights of the children on income assistance who receive no benefit from the payments made on their behalf. We have not heard government comment on how this policy's disproportionate impact on children in mother-led families can be mitigated in order to advance women's equality rights and the rights of their children.

Looking forward we are encouraged that government is reviewing this policy and we are interested in hearing on what principles government will be basing any new policy development.

### **POLICY CHANGE TO REDUCE CHILD AND FAMILY POVERTY**

The thousands of children and mothers affected by this clawback policy are some of the most vulnerable in the province, living on incomes far below the poverty line. BC urgently needs to reduce our child poverty rate from its current high of one in five children, and the disgraceful 50% poverty rate for children in lone-parent, mostly single mother, families. In the interest of justice and the best interests of these children, we urge government to move quickly to improve their lives.